

Proposed District Lease Policy

***Item Number 38
March 15, 2012***

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Assistant Executive Director***



For All Leases

- The District shall conduct a competitive bid process when it determines that it will lease District land and upon termination of an existing lease term, unless the Governing Board approves a waiver of competition.
- The minimum bid shall be the appraised market rent as approved by a District appraiser.
- In accordance with Section 373.093, Florida Statutes, the District shall publish notice of intention to lease in a newspaper in the County where the land is located and such other places as the board may determine.

For All Leases (continued)

- For the initial year of the Lease Term, rent shall be established by the successful high bid.
- For the second through fifth year of the Lease Term, rent will be subject to annual adjustments based on either Consumer Price Index (CPI) or appropriate Agricultural Commodity Index (ACI).
- The Lessee shall elect which adjustment will be used at the beginning of the lease and remain with that adjustment throughout the 10-year lease term.

For All Leases (continued)

- The sixth year of the Lease Term is subject to a new appraisal, which will establish market rent for that year with the remaining years of the Lease Term subject to either ACI or CPI adjustment.
- Current District leases that are expiring with less than a cumulative total lease term of 10 years may be renewed for an additional term up to 5 years, provided that the overall Lease Term does not exceed a maximum of 10 years.

Agricultural Leases

- The District shall provide a 10-year lease term.
- Lessee may terminate the lease after 5 years by providing notice at least 6 months prior to the end of the fifth year.
- The District may terminate the lease for convenience at any time with 6 months prior notice.
- Upon expiration of the 10-year lease term, the District will conduct a competitive bid process with the minimum bid established by a District appraiser.

Agricultural Leases (continued)

- The District shall provide to the existing tenant a right of first refusal, provided the existing tenant meets the following:
 - 1) has been in substantial compliance with the existing lease
 - 2) submits a responsive and responsible bid
- In order to exercise the right of first refusal, the existing tenant must agree to pay rent at 10% above the highest bid from another responsive and responsible bidder.
- In the event the existing tenant is the only responsive and responsible bidder, the existing tenant shall be awarded the lease at the submitted bid amount.

Agricultural Leases (continued)

- At the time the lease has been in place five years:
 - The District shall complete a new appraisal and adjust the rent for year 6 to fair market value.
 - For each subsequent year (years 7-10), rent shall be adjusted annually based on the Consumer Price Index or appropriate Agricultural Commodity Index.
 - The District may modify any of the lease terms and conditions as the District in its discretion determines are necessary. Such modifications may include, but are not limited to, changes in Best Management Practices (BMPs).

Other

- For all other leases (non-agricultural leases) the District shall provide a 5-year lease term.

Reservations and Assigned Leases in Connection with District Land Acquisition

- In all agreements for purchase and sale of land, the District shall require that:
 - Any reservation of use by the seller shall have a maximum 10-year term.
 - Upon expiration of the seller's reservation, the former seller may participate in the competitive lease process and will have the right of first refusal, as previously discussed.

Reservations and Assigned Leases in Connection with District Land Acquisition (continued)

- All third-party leases to be assumed by the District shall expire within one year of the date of closing. However, any lease entered into by the seller less than 6 months prior to execution of the purchase and sale agreement shall terminate at closing.
- Upon expiration of the third-party lease assumed by the District, the former lessee may participate in the competitive lease process, but will not have the right of first refusal.

Protect District from Liability on Leased Land for Taxes and Assessments

- Leases entered into after the effective date of this policy shall require the Lessee to deposit funds in the amount of one year's estimated property and sales tax liability with the District upon the lessee's execution of the lease. The deposited funds shall be held in escrow by the District.
- In lieu of depositing funds with the District in the amount of one year's estimated property tax, a Lessee shall have the option of delivering to the District an irrevocable letter of credit or performance bond, acceptable to the District, in the amount of one year's estimated tax liability for the leased property.

Protect District from Liability on Leased Land for Taxes and Assessments (continued)

- The Lessee shall be responsible for the payment of any ad valorem and non-ad valorem property taxes, special assessments and sales taxes levied against the property which is the subject of the lease.

Use of Cost-Share Participation Programs to Implement Best Management Practices on District Lands

- Prior to the Lessee's application for participation in a cost-share program, advance approval is required from the Executive Director.
- Prior to any implementation of a cost-share program for Best Management Practices (BMPs) on District lands, advance approval is required from the District's Governing Board.
- Prior to the Lessee's application for participation in a cost-share program, the Lessee must be in full compliance with all applicable state/federal rules and regulations.

Use of Cost-Share Participation Programs to Implement Best Management Practices on District Lands (continued)

- The Lessee shall be solely responsible for any and all cost-share obligations.
- The District shall have no responsibility for any of the Lessee's unpaid cost share.
- The District shall have no obligations under any Lessee's cost-share contract.
- Federal cost-share participation does not preclude compliance with the District's agricultural lease requirements, including, but not limited to, the 6-month District discretionary termination provision.

Additional Proposed Enhancements

sfwmd.gov

Short-Term Proposals

- List of all leases will be posted on the District's website (www.sfwmd.gov) and updated monthly.
- The list will include pertinent information such as:
 - Lessee
 - Acres leased
 - Amount of lease payment (adjusted annually)
 - Location (Google map)
 - Initial lease date and lease expiration
 - Date of annual lease payment
 - Date of tax payment(s)
 - Compliance inspection dates and results
- All lease documents will also be scanned and accessible to the public on the website.

Long-Term Proposals

- Goal is to implement a process very similar to ePermitting where all lease-related information can be accessed electronically by the public.

A banner graphic for ePermitting. The background is a blue and green wavy design. On the left, a hand is shown typing on a keyboard. On the right, a green leaf holds a water droplet. The text 'ePermitting Improves Business Efficiency' is prominently displayed in white. Below it, the text 'Apply online for water resource permitting' is shown. An orange button with the text 'LEARN MORE' and a right-pointing arrow is located below the text. At the bottom left, there are two white boxes with black text: 'LAKE OKEECHOBEE LEVEL' with 'Mar 13, 2012' and '12.84 ft.', and 'LAKE ISTOKPOGA LEVEL' with 'Mar 13, 2012' and '39.24 ft.'. At the bottom right, there are three small square icons with text below them: 'Water Shortage Watch' (with a photo of dry ground), 'Permitting Services' (with a blue and green wavy graphic), and 'Restoring the Everglades' (with a photo of a wetland).

sfwmd.gov/ePermitting



Discussion & Action



Governing Board Resolution

- A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT RELATING TO ADMINISTRATION OF LEASES; REPEALING SECTION 140-10, DISTRICT POLICIES CODE (“ADMINISTRATION OF AGRICULTURAL LEASES”); CREATING A NEW SECTION 140-10, DISTRICT POLICIES CODE ENTITLED ADMINISTRATION OF LEASES ON DISTRICT LANDS; PROVIDING FOR INCLUSION IN THE DISTRICT POLICIES CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.